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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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26623	7590	10/07/2005		
LEE W. TOWER 19 SADDLE ROAD RANCHO PALOS VERDES, CA 90275			EXAMINER SAFAVI, MICHAEL	
			ART UNIT 3673	PAPER NUMBER

DATE MAILED: 10/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/822,831	Applicant(s) PLIMMER, WANDA	
	Examiner Michael Safavi	Art Unit 3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 April 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "22" has been used to designate both "recess" and "top" of front safety ridge (20). To correct this, the examiner suggest changing reference numeral "22" on Fig. 1 which is on the bottom of the figure between reference numerals

"20" and "42" to --23-- and also inserting reference numeral --23-- on page 9, line 20, of the specification, after the word "top".

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

The disclosure is objected to because of the following informalities:

- (1) page 1, line 20, the examiner suggests deleting "Leach" and after "U.S. Patent No. 6,601,252", inserting --to Leach--;
- (2) page 1, line 24, the examiner suggests deleting "Maulding";
- (3) page 1, line 25, the examine suggests after "6,237,599", inserting --to Maulding--;
- (4) page 1, line 28, the examiner suggests deleting "Marcotte";
- (5) page 1, line 29, the examiner suggests after "6,189,169", inserting --to Marcotte--;

(6) page 2, line 19, the examiner suggests deleting "Creighton-Young" and after "U.S. Patent No. 5,707,031", inserting --to Creighton-Young--;

(7) page 2, line 22, the examiner suggests deleting "Little" and "5,707,031" (since 5,707,031 is the patent no. for Creighton-Young and not for Little), and after "U.S. Patent No.", inserting --5,522, 104 to Little--;

(8) page 2, line 25, the examiner suggests deleting "Weber";

(9) page 2, line 26, the examiner suggests after "5,133,098", inserting --to Weber--; and

(6) page 2, line 29, the examiner suggests deleting "Weber" and after "U.S. Patent No. 5,029,351", inserting --to Weber--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, line 9, the recitation of "the front retaining wall" lacks antecedent basis as only "multiple retaining walls" have been recited in line 3, but it is not inherent that one of these needs to be a "front retaining wall". The examiner believes Applicant

meant to recite "the front safety ridge" instead of "the front retaining wall" and will proceed with the examination of this application as if "the front safety ridge" had been recited instead of "the front retaining wall".

Claim 1, line 12, the recitation of "an infant" is confusing and indefinite and should be changed to --the infant-- as is done in lines 6 and 7 of claim 1.

Claim 1, lines 12-13, the two recitations of "the breast shelf" is confusing and indefinite and creates antecedent basis problems because it is not clear if the term is referring back to the first breast shelf, the second breast shelf, or both breast shelves.

Claim 2, line 3, the recitation of "an infant's shoulder and arm" should be changed to --the infant's shoulder and arm--.

Claim 3, lines 3-4, the two recitations of "the breast shelf" is confusing and indefinite and creates antecedent basis problems because it is not clear if the term is referring back to the first breast shelf, the second breast shelf, or both breast shelves.

Claim 4, lines 3-4, the recitation of "an infant's belly curvature" should be changed to --the infant's belly curvature--.

Claim 8, lines 3-4, the recitation of "an infant's belly curvature" should be changed to --the infant's belly curvature--.

Claim 13, line 2, the recitation of "a plurality of pockets" is confusing and indefinite and creates antecedent basis problems because it is not clear if the "plurality of pockets" are the same as or different from the "plurality of pockets" recited in claim 12, line 3 (i.e., if it is a second plurality of pockets, then claim 13 should be amended to recite --a second plurality of pockets--).

Claim 14, line 2, the recitation of “a plurality of pockets” is confusing and indefinite and creates antecedent basis problems because it is not clear if the “plurality of pockets” are the same as or different from the “plurality of pockets” recited in claim 12, line 3 (i.e., if it is a second plurality of pockets, then claim 13 should be amended to recite --a second plurality of pockets--).

Claim 15, line 19, the recitation of “an opening” is confusing and indefinite and creates antecedent basis problems because it is not clear if the opening is the same opening recited on line 15 of claim 15, or a different opening.

Claim 15, line 21, the recitation of “an infant” is confusing and indefinite and should be changed to --the infant-- as is done in lines 5, 7, 10 of claim 15.

Claim 15, lines 21-22, the two recitations of “the breast shelf” is confusing and indefinite and creates antecedent basis problems because it is not clear if the term is referring back to the first breast shelf, the second breast shelf, or both breast shelves.

Claim 16, lines 4 and 7, the recitation of “an infant’s shoulder and arm” should be changed to --the infant's shoulder and arm--.

Claim 17, lines 3 and 4, the recitation of “the breast shelf” is confusing and indefinite and creates antecedent basis problems because it is not clear if the term is referring back to the first breast shelf, the second breast shelf, or both breast shelves.

Claim 20, lines 3-4, the recitation of “an infant’s belly curvature” should be changed to --the infant's belly curvature--.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5, 9, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by Dunn (U.S. Patent No. 5,387,177).

As to claim 1, Dunn discloses a contoured infant nursing pad (Figs. 1-2) comprising:

a base (12);

multiple retaining walls (14, 16) coupled to (via hook and loop fasteners 36, 38) the base (12) for retaining an infant on the base (12);

a front safety ridge (32) coupled to (via hook and loop fasteners 58, 60) the base (12) for retaining the infant in an optimal nursing position and for preventing a mother from rolling onto the infant ; and

a first and second breast shelf (lower portion of 40, 42) located the base (12), each breast shelf (lower portion of 40, 42) on opposite sides of the front safety ridge (32) and located at an opening (24) in the base perimeter between the front safety ridge and (32) one of the multiple retaining walls (14, 16);

wherein an infant placed on the base and facing the breast shelf can access a breast placed on the breast shelf.

As to claim 2, Dunn discloses the contoured infant nursing pad of claim 1 as discussed above, and Dunn further discloses a recess (22) in the base (12) adjacent each breast shelf (lower portion of 40, 42) for accommodating an infant's shoulder and arm.

As to claim 3, Dunn discloses the contoured infant nursing pad of claim 2 as discussed above, and Dunn also discloses that the base (12) further comprises a slightly inclined infant headrest (middle portion of 40, 42) adjacent to the breast shelf (lower portion of 40, 42) for aligning an infant's mouth toward the breast shelf.

As to claim 4, Dunn discloses the contoured infant nursing pad of claim 1 as discussed above, and Dunn also discloses that the front safety ridge (32) comprises a curved transition from a top (68 or 64) of the front safety ridge (32) to the base (12) for accommodating an infant's belly curvature.

As to claim 5, Dunn discloses the contoured infant nursing pad of claim 1 as discussed above, and Dunn also discloses that the base is rectangular.

As to claim 9, Dunn discloses the contoured infant nursing pad claim 1 as discussed above, and Dunn also discloses that:

the base (12) comprises a flexible elastic material (see col. 6, line 48, wherein it states that base member (12) is "resilient");

the multiple retaining walls (14, 16) comprise the flexible elastic material (see col. 6, lines 50-51, wherein it states that side wall members or side rail means (14, 16) are made of "resilient foam"); and

the front safety ridge (32) comprises the flexible elastic material (see col. 8, lines 13-14, wherein it states that pillow means (32) is formed from a "resilient foam member").

As to claim 11, Dunn discloses the contoured infant nursing pad of claim 1 as discussed above, and Dunn also discloses a cover (116) over the contoured infant nursing pad for providing comfort and facilitating cleaning.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-8, 12-15, 17, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,387,177) in view of Morton (U.S. Patent No. 6,370,715).

As to claim 6, Dunn discloses the contoured infant nursing pad of claim 5 as discussed above.

However, Dunn fails to explicitly disclose that the multiple retaining walls comprise a back support retaining wall on the rectangular base opposite the front safety ridge for keeping the infant from rolling backward off the base.

Morton discloses a contoured infant nursing pad having multiple retaining walls (23, 24, 25), wherein the multiple retaining walls (23, 24, 25) comprise a back support

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retaining wall (25) on the rectangular base (29, 32) opposite the front safety ridge for keeping the infant from rolling backward off the base.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the contoured infant nursing pad of Dunn by including a back support retaining wall as taught by Morton in order to better enclose the infant on the pad to ensure they can roll off the back of the pad.

As to claim 7, Dunn in view of Morton discloses the contoured infant nursing pad of claim 6 as discussed above, and Morton also discloses that the multiple retaining walls (23, 24, 25) further comprise a first side retaining wall (23) coupled to the back support retaining wall (25) and a second side retaining wall (24) coupled the back support retaining wall (25), the first and second side wall (23, 24) for retaining the infant on the base (12).

As to claim 8, Dunn in view of Morton discloses the contoured infant nursing pad of claim 5 as discussed above, and Dunn also discloses that the front safety ridge (32) comprises a curved transition from a top (68 or 64) of the front safety ridge to the base (12) for accommodating an infant's belly curvature.

As to claim 12, Dunn discloses the contoured infant nursing pad of claim 11 as discussed above.

However, Dunn fails to explicitly disclose that a plurality of pockets on the cover for holding items within easy reach of a mother using the contoured infant nursing pad.

Morton discloses a cover (see Figs. 9 and 10) having a plurality of pockets (46 or 49) for holding items within easy reach of a mother using the contoured infant nursing pad.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the contoured infant nursing pad of Dunn by including a cover having a plurality of pockets as taught by Morton in order to conveniently store items a nursing mother might need within easy reach while she is nursing her infant.

As to claim 13, Dunn in view of Morton discloses the contoured infant nursing pad of claim 12 as discussed above, and Morton also discloses that the cover further comprises a plurality of pockets (46 in Fig. 9 or 49 in Fig. 10) on the cover adjacent to the back support retaining wall for holding items within easy reach of a mother using the contoured infant nursing pad.

As to claim 14, Dunn in view of Morton discloses the contoured infant nursing pad of claim 12 as discussed above, and Morton also discloses that the cover further comprises a plurality of pockets (46 in Fig. 9 or 49 in Fig. 10) on the cover adjacent to an outer side of at least one of the side retaining walls for holding items within easy reach of a mother using the contoured infant nursing pad.

As to claim 15, Dunn discloses a contoured infant nursing pad comprising:

- a rectangular base (12);
- a front safety ridge (32) coupled to (via hook and loop fasteners 36, 38) the rectangular base (12) for retaining the infant in an optimal nursing position and for preventing a mother from rolling onto the infant;

a first side retaining wall (14) for retaining the infant on the base (12);
a second side retaining wall (16) opposite the first side retaining wall (14);
a first breast shelf (lower portion of 40) located on the base (12), the first breast shelf (lower portion of 40) located on a first side of the front safety ridge (32) and located at an opening (24) in the base perimeter between the front safety ridge (32) and the first side retaining wall (14);

a second breast shelf (lower portion of 42) located on the base (12), the second breast shelf (lower portion of 42) located on a second side of the front safety ridge (32) and located at an opening (24) in the base perimeter between the front safety ridge (32) and the second side retaining wall (16);

wherein an infant placed on the base (12) facing the breast shelf (either lower portions of 40, 42) can access a breast placed on the breast shelf.

However, Dunn fails to explicitly disclose: a back support retaining wall on the rectangular base opposite the front safety ridge for keeping the infant from rolling backward off the base; that the first side retaining wall is coupled to the back support retaining wall for retaining the infant on the base; and that the second side retaining wall, opposite the first side retaining wall, is coupled to the back support retaining wall.

Morton discloses a contoured infant nursing pad including a back support retaining wall on the rectangular base opposite the front safety ridge for keeping the infant from rolling backward off the base; first side retaining wall coupled to the back support retaining wall for retaining the infant on the base; and a second side retaining wall opposite the first side retaining wall coupled to the back support retaining wall.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the contoured infant nursing pad of Dunn by including a back support retaining wall as taught by Morton in order to better enclose the infant on the pad to ensure they can roll off the back of the pad.

As to claim 17, Dunn in view of Morton discloses the contoured nursing pad of claim 15 as discussed above, and Dunn also discloses that the base (12) further comprises a slightly inclined infant headrest (middle portion of 40, 42) adjacent to the breast shelf (lower portion of 40, 42) for aligning an infant's mouth toward the breast shelf.

As to claim 19, Dunn in view of Morton discloses the contoured infant nursing pad of claim 15 as discussed above, and Morton also discloses:

a cover over the contoured nursing pad for providing comfort and facilitating cleaning; and

a plurality of pockets (46 in Fig. 9 or 49 in Fig. 10) on the cover.

As to claim 20, Dunn in view of Morton discloses the contoured nursing pad of claim 15 as discussed above, and Dunn also discloses that the front safety ridge (32) comprises a curved transition from a top (68 or 64) of the front safety ridge (32) to the base (12) accommodating an infant's belly curvature.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,387,177) in view of Staub et al. (U.S. Patent No. 5,341,531).

As to claim 10, Dunn discloses the contoured infant nursing pad of claim 9 as discussed above.

However, Dunn fails to explicitly disclose that the flexible elastic material comprises polyurethane foam.

Straub et al. disclose a bolster structure for infant side sleeping support which is comprised of flexible elastic material such as polyurethane foam (see col. 2, lines 5-7).

It would have been obvious to one of ordinary skill in the art at the time the invention as made to modify the contoured infant nursing pad of Dunn to be made of a polyurethane foam material as taught by Straub et al. in order to provide firm yet resilient support of the infant laid on the pad.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,387,177) in view of Morton (U.S. Patent No. 6,370,715), as applied to claim 15 above, and further in view of Schwenker (U.S. Design Patent No. Des. 346,069).

As to claim 16, Dunn in view of Morton discloses the contoured infant nursing pad of claim 15 as discussed above, and Dunn further discloses a first recess (22) in the base (12) adjacent to the first breast shelf (either lower portion of 40 or lower portion of 42) for accommodating an infant's shoulder and arm.

However, Dunn in view of Morton fails to explicitly disclose a second recess in the base adjacent the second breast shelf for accommodating an infant's shoulder and arm.

Schwenker discloses a contoured infant pad having first and second recesses in the base adjacent to and on either side of the front safety ridge.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the contoured infant nursing pad of Dunn in view of Morton to have first and second recesses in the base adjacent to and on either side of the front safety ridge as taught by Schwenker in order to allow for placement of an infant in either direction (i.e. with his or her head to the left or right of the front safety ridge) so as to provide easy access to either the left or right breast of the woman nursing the infant.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dunn (U.S. Patent No. 5,387,177) in view of Morton (U.S. Patent No. 6,370,715), as applied to claim 15 above, and further in view of Straub et al. (U.S. Patent No. 5,341,531).

As to claim 18, Dunn in view of Morton discloses the contoured infant nursing pad of claim 15 as discussed above, and Dunn also discloses that the base, front safety ridge, back support retaining wall, first side retaining wall, and second retaining wall comprise a resilient foam material.

However, Dunn in view of Morton fails to explicitly disclose that the resilient foam material is polyurethane foam.

Straub et al. disclose that a bolster structure for infant side sleeping support which is comprised of flexible elastic material such as polyurethane foam (see col. 2, lines 5-7).

It would have been obvious to one of ordinary skill in the art at the time the invention as made to modify the contoured infant nursing pad of Dunn in view of Morton to be made of a polyurethane foam material as taught by Straub et al. in order to provide firm yet resilient support of the infant laid on the pad.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent No. 6,564,408 to Van Vuuren discloses a pillow for supporting an infant during nursing. U.S. Patent No. 6,763,539 to Bartley et al. discloses a nursing pillow and methods. U.S. Patent No. 5,581,832 to Bridley discloses an infant support. U.S. Patent No. 6,473,923 to Straub discloses a infant positioner for reducing risk of positional plagiocephaly. U.S. Patent Application Publication No. 2004/0060117 to inflatable body support apparatus. U.S. Patent Application Publication No. 2004/0181878 to Stelnicki discloses an infant head guard and method of use. U.S. Patent No. 4,733,836 to Barnes discloses a nursing bottle holder. U.S. Patent No. 5,347,669 to Neviasser et al. discloses an infant sleeping position restraint. U.S. Patent No. 5,522,104 to Little discloses a lateral recumbency support pillow. U.S. Patent No. 5,551,109 to Tingley et al. discloses a pillow for holding and feeding an infant. U.S.

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Design Patent No. Des. 296,047 to Kucera et al. discloses an accessory seat. U.S.

Design Patent No. Des. 341,736 to McDonald discloses a seat cushion.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Safavi whose telephone number is (571)-272-7046. The examiner can normally be reached on Monday through Thursday, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on (571)-272-7049. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael Safavi, Primary Examiner
October 1, 2005

MICHAEL SAFAVI
PRIMARY EXAMINER
ART UNIT 36A